

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 97-301-E - ORDER NO. 97-668  
AUGUST 5, 1997

IN RE:	Hartsville H.M.A., Inc. and	)	ORDER
	Carolina Power & Light Company,	)	DEFERRING
		)	ACTION
	Complainants,	)	
		)	
	vs.	)	
		)	
	Pee Dee Electric Cooperative, Inc.,	)	
		)	
	Respondent.	)	
		)	
		)	

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This matter comes before the Public Service Commission of South Carolina (the Commission) on the Complaint and Petition for Emergency Injunctive Relief filed by Hartsville H.M.A., Inc. (HMA) and Carolina Power & Light Company (CP&L) against Pee Dee Electric Cooperative, Inc. (Pee Dee or the Co-op). Subsequently, a Motion to Dismiss the Complainant's Petition was filed by the Co-op.

On July 24, 1997, at 11:30 a.m., the Motion to Dismiss and the Complaint and Petition came before this Commission for oral argument. The Honorable Guy Butler, Chairman, presided. Pee Dee was represented by Arthur G. Fusco, Esquire and William S. Derrick, Esquire. HMA and CP&L were represented by William F. Austin, Esquire, Len S. Anthony, Esquire, and E. Crosby Lewis, Esquire. The Commission Staff (the Staff) was represented by F.

David Butler, General Counsel.

HMA and CP&L have filed their Complaint and Petition for Emergency Injunctive Relief against Pee Dee, with regard to construction of a new hospital on a 33.5 acre tract of land adjacent to the City of Hartsville. According to the Complainants, the vast majority of the tract of land, and all of the portion upon which the buildings will be constructed, is in an area that was never assigned by the Public Service Commission to any electric supplier. A small portion at one of the corners of the 33.5 acres is assigned to CP&L. Sometime during the 1940's, according to the Complainants, Pee Dee extended service to a tenement house. On this land, Pee Dee installed two utility poles and a electric line to serve the premise. Only one of these poles is located on the tract of land in question. Approximately 30 years ago, the tenement house was destroyed and never rebuilt. As of the date of the filing of the pleading, there are no premises located on this tract of land, but two poles installed by Pee Dee are still standing. In any event, according to HMA and CP&L, the question of who will provide electric service to the new hospital is a matter of customer choice. HMA and CP&L ask this Commission to order removal of the pole in question, so that construction of the hospital may proceed on schedule, and, also, all associated electrical facilities still located on the tract of land in question. Further, HMA and CP&L request that the Commission rule that, given the location of the premise to be constructed, this is a customer choice situation, and HMA may

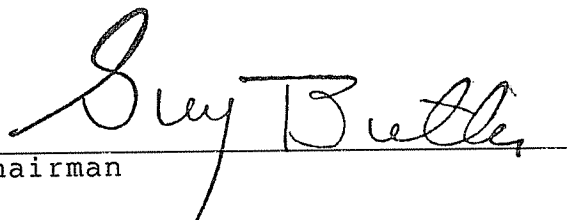
choose either CP&L or Pee Dee to serve these premises.

Pee Dee has filed a Motion to Dismiss the complaint and Petition on the grounds that an action has been filed with the Darlington County Court of Common Pleas which would affect the same issues as are now before the Commission. Pee Dee characterizes the question as one of contract and easement law versus territorial assignment.

Considering the fact that an action has now been filed with the Court of Common Pleas for Darlington County concerning this matter, we believe the better course of action in this matter is to defer any action on the emergency injunctive relief, pending a hearing, in the Court of Common Pleas. We do hold, however, that if a hearing is not held prior to September 1, 1997, the Commission will again consider this entire matter.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)